

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
vs.) CRIM. NO. 2014-54
)
)
)
SHERRYMAE MORALES,)
)
)
Defendant.)
)

REPORTER'S TRANSCRIPT

DAY THREE

JURY TRIAL

Wednesday, July 1, 2015

- 1 -

BEFORE: THE HONORABLE CURTIS V. GOMEZ
District Judge

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY
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For the Government

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For Defendant

— — —

COURT REPORTER: CHANDRA R. KEAN, RMR
Official Court Reporter
Virgin Islands District Court
St. Thomas, Virgin Islands

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(Court recessed)

— — —

PROCEEDINGS

(Court called to order at 8:21 a.m. in USA v.

08:21:47 4 | Morales.)

(Jury present.)

08:21:54 6 THE COURT: Good morning, ladies and gentlemen.

08:21:54 7 I hope you had a pleasant evening.

08:21:57 8 We are in the final stages. There are just a few
08:22:02 9 final instructions I need to give you before you begin
08:22:04 10 your deliberations.

08:22:05 11 Before I do that, though, let me tell you what
08:22:09 12 you'll have with you when you're deliberating.

08:22:11 13 You will have a copy of the jury instructions.

08:22:14 14 You will have all the items that have been admitted
08:22:18 15 into evidence. You'll have it by way of electronic
08:22:21 16 retrieval -- there's a monitor in there and you'll
08:22:28 17 figure out how to use it. But you'll be able to see all
08:22:32 18 the exhibits.

And you'll also have a copy of the indictment.

08:22:35 20 And you'll have another form that we refer to as
08:22:37 21 the verdict form, so you can indicate what your vote is.
08:22:42 22 All right.

08:22:43 23

08:22:46 24 you can begin the process.

08:22:46 25

08:22:46 1 FURTHER JURY INSTRUCTIONS BY THE COURT

08:22:47 2 THE COURT: The indictment charges that the

08:22:48 3 crimes charged occurred on or about certain dates.

08:22:51 4 The proof need not establish with certainty the

08:22:54 5 exact dates of the alleged offenses. It's sufficient if

08:22:56 6 the evidence in this case establishes beyond a

08:22:58 7 reasonable doubt that the offense was committed on dates

08:23:01 8 reasonably near the date alleged.

08:23:02 9 During the course of this trial you've seen counsel

08:23:05 10 both for the government and for the defense make various

08:23:07 11 objections to questions asked and evidence offered.

08:23:10 12 It is not only the right, it is the duty of counsel

08:23:17 13 for either the government or for the defense to object

08:23:19 14 when counsel believes evidence or testimony being

08:23:21 15 offered is not admissible under the Rules of Evidence.

08:23:24 16 Then I rule on the objection.

08:23:26 17 Do not be influenced in any way by my rulings,

08:23:29 18 whether in favor of or against the government or the

08:23:32 19 defendant. As I've already told you, these rulings

08:23:35 20 involve questions of law only, and may not be given any

08:23:38 21 consideration by you in your deliberations.

08:23:40 22 In performing my constitutional role to preside

08:23:44 23 over this trial, I sometimes found it necessary to ask a

08:23:47 24 question or two of witnesses, to clarify testimony I

08:23:49 25 thought was unclear.

08:23:50 1 If I have asked any question to any witnesses
08:23:53 2 during the course of this trial, or if I've said or done
08:23:56 3 anything during the trial, or in the course and manner
08:23:58 4 of instructing you now, where it seems to you that I'm
08:24:01 5 inclined to favor the case of the government or the case
08:24:04 6 of the defendant, you must remove any such impression
08:24:06 7 from your minds and not be influenced by it, as no such
08:24:10 8 impression was intended.

08:24:12 9 You've seen counsel consult with each other and
08:24:15 10 sometimes between each other. Attorneys have an
08:24:18 11 obligation to consult with each other if such
08:24:20 12 consultation is in the best interest of the attorney's
08:24:23 13 client.

08:24:24 14 Counsel also have a right and duty to ask me to
08:24:26 15 make rulings of law and to request conferences at
08:24:29 16 sidebar out of the hearing of the jury. All those
08:24:32 17 questions of law must be decided by me, the Court.

08:24:34 18 You should not show any prejudice against an
08:24:37 19 attorney or the attorney's client because the attorney
08:24:39 20 asked for a conference out of the hearing of the jury or
08:24:42 21 asked the Court for a ruling on the law.

08:24:44 22 All of these conferences deal with legal questions
08:24:47 23 on which I have ruled, and do not concern your function
08:24:50 24 as jurors. Do not speculate on such matters during your
08:24:53 25 deliberations.

08:24:54 1 You've been chosen and sworn as jurors in this case

08:24:57 2 to try the issues of fact presented by the defendant's

08:25:00 3 plea of not guilty to the charges in the indictment.

08:25:04 4 You are to perform this duty without bias, sympathy

08:25:08 5 or prejudice. Under no circumstances, then, may your

08:25:10 6 deliberations be affected or diverted by any appeals to

08:25:14 7 bias, passion or prejudice, nor influenced by any pity

08:25:18 8 or sympathy for either side.

08:25:20 9 In every respect your judgment must be considered,

08:25:24 10 deliberate and objective. It must derive its force and

08:25:28 11 validity from the facts and inferences reasonably and

08:25:30 12 logically supported by the testimony.

08:25:32 13 Both the government and the defendant expect that

08:25:34 14 you will carefully and impartially consider all of the

08:25:37 15 evidence, follow the law as stated by the Court, and

08:25:39 16 reach a just verdict regardless of the consequences.

08:25:42 17 I need not impress upon you that it is your duty to

08:25:45 18 give an absolutely fair and impartial verdict.

08:25:48 19 It was said that this is an important case. That

08:25:51 20 is true. Every case that comes into this court is

08:25:53 21 important.

08:25:54 22 This case is of equal importance to the government

08:25:56 23 and to the defendant. Each is entitled to your fairest

08:26:00 24 consideration, your closest judgment and your impartial

08:26:03 25 decision.

08:26:04 1 Jurors perform a very important function in
08:26:06 2 deciding upon their verdict. You are an arm of this
08:26:09 3 Court, here to do justice. That is sacred. Do your
08:26:13 4 duty conscientiously, according to your oath and
08:26:16 5 according to these instructions, and justice will be
08:26:19 6 done.

08:26:20 7 You were accepted as jurors based on your answers
08:26:22 8 when you were initially questioned about your
08:26:25 9 qualifications. The answers you then made to questions
08:26:28 10 with respect to your competency, qualifications,
08:26:30 11 fairness, lack of prejudice and freedom from sympathy
08:26:33 12 are as binding upon you now as they were then, and
08:26:36 13 should remain so until you are finally discharged from
08:26:39 14 further consideration of this case.

08:26:42 15 Remember at all times you are not partisans. You
08:26:45 16 are judges, judges of the facts. Your sole interest is
08:26:48 17 to search for and to ascertain the truth from the
08:26:50 18 evidence in this case.

08:26:51 19 You will recall earlier in these instructions I
08:26:55 20 charged that under our system of criminal justice the
08:26:57 21 Court and this jury have distinct functions. What
08:27:01 22 sentence or punishment, if any, the defendant will
08:27:03 23 receive if found guilty is entirely beyond the province
08:27:06 24 of the jury. In plain words, that is the business of
08:27:08 25 this Court.

08:27:10 1 Sentence or punishment should never be considered
08:27:12 2 by a jury in any way in arriving at an impartial
08:27:16 3 verdict. Your sole duty is to determine the guilt or
08:27:18 4 lack of guilt of the defendant presently on trial before
08:27:21 5 you.

08:27:22 6 You are further instructed if any of you has
08:27:26 7 developed any opinion in this case, predicated in whole
08:27:28 8 or in part from sources seen or heard outside of this
08:27:32 9 court, you are to put such opinion out of your mind.

08:27:36 10 I want to stress in the strongest possible terms
08:27:38 11 that regardless of what counsel has said in recalling
08:27:41 12 the facts of this case, it is your recollection of the
08:27:43 13 facts that should guide you in carrying out your
08:27:45 14 function as jurors of the facts.

08:27:49 15 If any of the attorneys stated a version of the
08:27:51 16 facts that does not square with your own recollections,
08:27:53 17 you are to disregard that version in favor of your own
08:27:57 18 recollections.

08:27:58 19 In arriving your verdict you are to consider all
08:28:00 20 the evidence as you recall it, and you are to give that
08:28:03 21 evidence the weight that you believe it is entitled to
08:28:05 22 receive.

08:28:07 23 During the course of this trial you have no doubt
08:28:09 24 received definite impressions on how you think it should
08:28:11 25 be decided. Do not allow these impressions to become so

08:28:15 1 firmly fixed that they prevent you from fairly and
08:28:17 2 frankly discussing this case with any of your fellow
08:28:19 3 jurors who may have a different point of view.

08:28:24 4 It is your duty as jurors to give careful attention
08:28:27 5 and consideration to the views of your fellow jurors, to
08:28:30 6 consult with one another and to deliberate with a view
08:28:33 7 toward reaching an agreement, if you can do so without
08:28:35 8 doing violence to your individual judgment.

08:28:37 9 Each of you must decide the case for yourself, but
08:28:40 10 do not -- but do so only after an impartial
08:28:44 11 consideration of the evidence with your fellow jurors.

08:28:48 12 In the course of your deliberations, do not
08:28:50 13 hesitate to take a look at your own views and to change
08:28:52 14 your opinion if you become convinced it is wrong. But
08:28:55 15 do not give up your honest conviction or belief without
08:28:57 16 the weight -- let me read that again.

08:29:01 17 Do not give up your honest conviction or belief
08:29:04 18 about the weight or effect of the evidence solely
08:29:06 19 because of the opinion of your fellow jurors, or just so
08:29:09 20 you can return a verdict.

08:29:10 21 When you retire to the jury room to deliberate,
08:29:13 22 your first order of business is to elect a foreperson.

08:29:16 23 The foreperson will preside over your deliberations
08:29:18 24 and will speak for you here in court.

08:29:21 25 That person has no greater weight of opinion than

08:29:23 1 anyone else.

08:29:25 2 If it becomes necessary during your deliberations

08:29:27 3 to communicate with me, you may send a note by the court

08:29:30 4 security officer or marshal.

08:29:32 5 Never try to communicate with me by any means other

08:29:36 6 than by a signed, sealed writing.

08:29:38 7 And bear in mind you are not to reveal to the Court

08:29:41 8 or to any person how you stand, numerically or

08:29:44 9 otherwise, until you've reached a unanimous verdict.

08:29:50 10 And in communicating with the Court, you do not

08:29:53 11 communicate with anyone else, any deputy or any marshal

08:29:59 12 or any court security officer, about your verdict.

08:30:02 13 The only communication that you can have with those

08:30:04 14 people is to let them know you need to communicate with

08:30:07 15 me, the Court. And then you'll communicate with me

08:30:10 16 through a signed, sealed writing.

08:30:13 17 Now a word about your verdict. Your verdict must

08:30:15 18 represent the considered judgment of each juror, and all

08:30:18 19 jurors must agree on the verdict before you return a

08:30:21 20 verdict. Your verdict must be unanimous.

08:30:24 21 To aid and assist you in the discharge of your

08:30:26 22 obligation, there has been prepared, with the consent of

08:30:28 23 counsel, a verdict form which you are to answer

08:30:31 24 unanimously, thereby facilitating your task and that of

08:30:35 25 the Court in determining the proper verdict to be

08:30:37 1 entered.

08:30:38 2 As I've discussed before, you will be making a
08:30:40 3 determination of guilty or not guilty on each crime with
08:30:42 4 which the defendant is charged.

08:30:45 5 As you will see when I give you the verdict form,
08:30:47 6 it has a space listed for the charge. Within the space
08:30:50 7 you'll note that there's a space provided for guilty or
08:30:54 8 not guilty.

08:30:54 9 When you've made a unanimous determination of the
08:30:57 10 guilt or innocence of the defendant with respect to a
08:30:59 11 particular charge, you will make an "X" mark in the
08:31:01 12 appropriate space, indicating either guilty or not
08:31:04 13 guilty.

08:31:04 14 Nothing that has been said in these instructions or
08:31:06 15 in the form of verdict is to suggest or convey in any
08:31:10 16 way or manner what verdict I think you should find.

08:31:15 17 You will take the form with you, and when you have
08:31:16 18 unanimously made a determination the foreperson should
08:31:20 19 date it, sign it and then pass it to each of you to
08:31:23 20 sign. Then it should be sealed.

08:31:24 21 Then you should advise the marshal or deputy that
08:31:29 22 you wish to be returned to the courtroom. And upon your
08:31:32 23 return to the courtroom, the foreperson should bring the
08:31:35 24 verdict form.

08:31:35 25 I'll then ask if you've reached a verdict and, if

08:31:39 1 so, will ask the foreperson to announce the jury's
08:31:42 2 verdict. Your foreperson will then respond by using the
08:31:45 3 completed verdict form supplied to you and read that
08:31:48 4 form to have the verdict recorded.

08:31:53 5 All right. It's now time to begin your
08:31:54 6 deliberations. As I said, you will have the evidence,
08:31:58 7 the instructions and the indictment with you.

08:32:07 8 Under our system of justice, only twelve jurors may
08:32:12 9 deliberate. So there are two alternates. The two
08:32:14 10 alternates will be separated for deliberation purposes.
08:32:16 11 The alternates are not excused, though. They will just
08:32:19 12 be separated during deliberations. In the event there
08:32:23 13 is need for an alternate, then we'll call you and begin
08:32:26 14 deliberations again with the alternate who may be subbed
08:32:31 15 in, if necessary.

08:32:32 16 All right. With that, it's time to begin your
08:32:35 17 deliberations.

08:33:48 18 (Jury out for deliberations.)

08:33:52 19 THE COURT: I don't think I had an opportunity.
08:33:56 20 Good morning, Counsel.

08:33:58 21 MR. JUPITER: Good morning, Your Honor.

08:33:59 22 MR. POTTER: Good morning, Your Honor.

08:34:00 23 THE COURT: All right. The seven-minute rule
08:34:02 24 is in place. Just make sure you get to the courtroom in
08:34:05 25 seven minutes, so if there's a note we can address it

08:34:08 1 promptly. We won't keep the jury waiting.

08:34:11 2 MR. JUPITER: I would ask --

08:34:11 3 THE COURT: Objections --

08:34:12 4 MR. JUPITER: Your Honor, we are about

08:34:14 5 seven minutes away. Could we get ten minutes?

08:34:16 6 THE COURT: You want to change the seven-minute

08:34:19 7 rule to a ten-minute rule; is that what you're asking?

08:34:21 8 MR. JUPITER: Well, I asked the chief judge to

08:34:25 9 do it and -- because we're not in the court, we're not

08:34:28 10 in this court.

08:34:29 11 THE COURT: All right. We'll consider it.

08:34:31 12 Any objections with respect to the jury

08:34:37 13 instructions from the government?

08:34:39 14 MR. POTTER: No objections, Your Honor.

08:34:40 15 THE COURT: Attorney Jupiter?

08:34:41 16 MR. JUPITER: Yes, Your Honor.

08:34:43 17 THE COURT: Okay. Go ahead. You'll note that

08:34:48 18 there were some changes that were made with respect to

08:34:51 19 some of the concerns you raised during the charging

08:34:55 20 conference.

08:34:56 21 MR. JUPITER: Yes. And I couldn't -- my

08:35:00 22 Internet is out, so I couldn't log in this morning when

08:35:03 23 I went to the office to try to print them out. So I may

08:35:06 24 be mistaken, because I had the version that was not --

08:35:13 25 THE COURT: Speak into the microphone. For

08:35:15 1 some reason, your microphone is not --

08:35:20 2 MR. JUPITER: It's not on.

08:35:21 3 THE COURT: Maybe -- do you have one of the

08:35:23 4 wireless?

08:35:23 5 MR. JUPITER: Okay. Test.

08:35:33 6 Okay, Your Honor, the -- with respect to the jury

08:35:39 7 instruction on mental state and specific intent -- and

08:35:46 8 this is on the page 11 of the unrevised -- unrevised

08:35:53 9 version of the original version -- the Court instructed,

08:36:02 10 I believe instructed the jury that while -- in the

08:36:13 11 middle paragraph it talks about:

08:36:16 12 State of mind or knowledge ordinarily may

08:36:18 13 only be proved indirectly, that is, by

08:36:21 14 circumstantial evidence, because there's no

08:36:24 15 way we can get inside to observe the

08:36:27 16 operations of the human mind.

08:36:28 17 While witnesses may be able to give

08:36:30 18 direct evidence of what the defendant said or

08:36:32 19 did or failed to say or do, there could be no

08:36:35 20 eyewitness account of the state of a person's

08:36:38 21 mind at the time an act was done. But what a

08:36:43 22 witness does, says, or fails to say or do may

08:36:46 23 indicate the state of mind in which the person

08:36:49 24 did the act.

08:36:51 25 So I would ask -- I would have -- my objection is

08:36:55 1 that that includes "fails to do" -- "fails to say or
08:37:01 2 do," which I believe goes to omissions, because the
08:37:04 3 government did not charge material omission by this
08:37:09 4 crime being in the indictment, these crimes being done
08:37:13 5 by omission.

08:37:14 6 I would object to those, that instruction with
08:37:18 7 regard to the language included about what they failed
08:37:22 8 to do or failed to say.

08:37:24 9 THE COURT: All right.

08:37:24 10 The Court considered the objection and found the
08:37:28 11 instruction to be appropriate under the circumstances.
08:37:31 12 While the government may not have put every specific
08:37:37 13 manner by which they might prove the crime, once the
08:37:41 14 crime is alleged, the crime can be committed and a jury
08:37:46 15 could find by permissible inferences from circumstantial
08:37:49 16 evidence or direct evidence that the defendant committed
08:37:55 17 the offense.

08:37:56 18 And the instruction captures that, what a jury is
08:38:02 19 permitted to do, and that is consider circumstantial
08:38:07 20 evidence as well as direct evidence, and give equal
08:38:10 21 weight to both; and also captures the notion that a
08:38:16 22 crime may be committed, not just by direct acts but by
08:38:21 23 acts of omission as well. And the Court finds that the
08:38:28 24 instruction was appropriate.

08:38:29 25 Go ahead, your next one.

08:38:30 1 MR. JUPITER: My next one goes to determining
08:38:32 2 the value of the property, which was on page 17 of the
08:38:35 3 unrevised version.

08:38:38 4 I objected to this in the jury conference -- well,
08:38:43 5 I asked the Court to actually give an additional
08:38:51 6 instruction.

08:38:51 7 And the Court indicated that during the jury charge
08:38:56 8 it would allow counsel to make its objection with regard
08:38:59 9 to the instruction we were seeking.

08:39:02 10 But this goes to bona fide salary exception. And
08:39:08 11 we would ask that this would have been, the way it is
08:39:15 12 stated as it was given, the first sentence saying:

08:39:19 13 The value of the property stolen,
08:39:20 14 embezzled, obtained by fraud or knowingly
08:39:22 15 converted by the defendant, does not include
08:39:24 16 legitimate salary, wages, fees or other
08:39:27 17 compensation paid, or expenses paid or
08:39:30 18 reimbursed in the ordinary course of business.

08:39:33 19 And then it goes on to say:

08:39:34 20 If you find the defendant devised a
08:39:37 21 scheme or plan to take sums of money or
08:39:39 22 property --

08:39:40 23 THE COURT: That's not what was instructed and
08:39:42 24 that is not what we'll give them. What the Court did
08:39:46 25 was put a list that matched the first sentence, as we

08:39:48 1 discussed in our charging conference.

08:39:49 2 So the second sentence, I believe, reads, "If you
08:39:52 3 find that the defendant devised a scheme or plan to" --
08:39:55 4 and then we listed "illicit conduct, steal, embezzle,
08:39:59 5 obtain by fraud, or knowingly convert money or
08:40:04 6 property."

08:40:05 7 So it listed conduct in a serial fashion that was
08:40:12 8 consistent with the first sentence.

08:40:13 9 Go ahead.

08:40:14 10 MR. JUPITER: Yes, Your Honor. And I apologize
08:40:16 11 for that. I, like I said, I don't have the printed
08:40:22 12 version. I wanted to get it this morning.

08:40:24 13 But at any rate, Your Honor, I wanted the -- I
08:40:27 14 think either way you list it, it makes it appear that if
08:40:39 15 you -- that salary could be included in this amount, if
08:40:45 16 you find that the defendant devised a scheme. And it
08:40:51 17 doesn't indicate to the jury that if salary, legitimate
08:40:58 18 salary, wages, fees or other compensation paid is used
08:41:05 19 for the government to meet its threshold burden to prove
08:41:10 20 that the amount stolen or obtained by fraud was at least
08:41:16 21 \$5,000, then the jury would have to find the defendant
08:41:19 22 not guilty.

08:41:22 23 I beg of the Court's indulgence. I have a case.

08:41:22 24 (Pause)

08:41:36 25 We cite to the Sixth Circuit case of United States

08:41:42 1 versus Mills, which I believe is very much on point.

08:41:47 2 This is a case where the bona fide salary exception was

08:41:54 3 applied. And even though the Court found that these

08:42:02 4 were deputies who were hired, and the issue in the case

08:42:08 5 was whether they were hired by bribes. And there were

08:42:16 6 bribes used in, that were not in excess of \$5,000,

08:42:21 7 kickbacks to get their jobs.

08:42:24 8 But the amount that the government was trying to

08:42:29 9 use as part of the threshold included the salaries that

08:42:35 10 they got in the ordinary course of business.

08:42:38 11 And that's exactly the case here. So we would have

08:42:42 12 asked that the jury would have been instructed that if

08:42:47 13 they found that the amount in controversy was part of

08:42:52 14 the \$5,000 threshold, it was part -- that it was

08:42:59 15 Ms. Morales's salary from the Virgin Islands National

08:43:05 16 Guard, that the jury would have to find the defendant

08:43:07 17 not guilty.

08:43:09 18 And the other thing I would ask for is with regard

08:43:14 19 to the fifth element:

08:43:15 20 As stated earlier, the government must

08:43:17 21 prove beyond a reasonable doubt that the value

08:43:19 22 of the property stolen, embezzled or obtained

08:43:23 23 by fraud was at least \$5,000.

08:43:25 24 This amount does not include legitimate

08:43:28 25 salary, wages, fees, or other compensation

08:43:31 1 paid, or expenses paid, expenses paid or
08:43:35 2 reimbursed in the ordinary course of business.

08:43:38 3 If you find that the government has not
08:43:45 4 proven beyond a reasonable doubt that the
08:43:49 5 amount stolen was -- that part of the amount
08:44:02 6 stolen in excess -- over, over \$5,000, was in
08:44:15 7 part of the salary wages or fees paid in
08:44:18 8 compensation, that you must find the defendant
08:44:20 9 not guilty.

08:44:22 10 THE COURT: All right. With respect to that
08:44:26 11 suggestion, the Court considered the defense's
08:44:31 12 suggestion and finds that the instruction is appropriate
08:44:34 13 and adequate.

08:44:35 14 In fact, the instruction must be read together with
08:44:42 15 the -- that is, the instruction that outlines how you
08:44:46 16 determine value of property has to be read together with
08:44:49 17 the elements that have to be proved by the government.

08:44:51 18 The fifth element, that the value of the property
08:44:55 19 stolen has to exceed \$5,000, the explanation that
08:44:59 20 follows instructs the jury on how you determine the
08:45:02 21 value of the property stolen.

08:45:04 22 And in that first sentence it specifically says:

08:45:05 23 The value of the property stolen does not
08:45:08 24 include legitimate salary, wages, fees or
08:45:12 25 other compensation paid or expenses paid or

08:45:14 1 reimbursed in the ordinary course of business.

08:45:17 2 Case law, I think, supports the view that a jury is

08:45:21 3 presumed to follow the instruction of the Court. And

08:45:24 4 they were specifically told: When you're looking at the

08:45:27 5 value of stolen property, do not include legitimate

08:45:31 6 salary, wages, fees or other compensation paid.

08:45:36 7 So the Court sees that the argument is more a proof

08:45:40 8 issue, and if the jury is persuaded the burden was met

08:45:44 9 by the government, then I suspect they will rule

08:45:48 10 accordingly.

08:45:48 11 If they don't, then they will accept the view of

08:45:55 12 defense, that the legitimate salary diminished the

08:46:00 13 stolen property, to the extent there was any stolen

08:46:02 14 property, that was proved to be an amount below \$5,000.

08:46:07 15 Okay. What's your next one?

08:46:10 16 MR. JUPITER: Your Honor, with regard to the

08:46:12 17 Counts 3 through 36, the wire fraud counts, I know that

08:46:21 18 the Court revised this section and at least put "Virgin

08:46:26 19 Islands National Guard" in one of the elements.

08:46:29 20 However, I thought because of all of the testimony,

08:46:34 21 as well as even exhibits that included payments from the

08:46:43 22 Military Service Corporation in this case, as well as

08:46:47 23 the allegations with regard to improper payments on

08:46:52 24 those, on that end, that it needed to be clearly pointed

08:46:58 25 out to the jury that this was not a -- these were not to

08:47:04 1 be considered in terms of whether or not she committed
08:47:08 2 wire fraud, that she was only being charged with
08:47:14 3 defrauding the Virgin Islands National Guard.

08:47:16 4 And I know the Court, I believe, put that in one --
08:47:21 5 once, but I would ask that the Court would instruct the
08:47:23 6 jury, because this evidence came in regarding payments
08:47:28 7 made by the Military Personnel Services Corporation,
08:47:34 8 that the jury could find, for instance, that there was
08:47:38 9 fraud committed against Military Personnel
08:47:45 10 Compensation -- Personnel Services Corporation, and find
08:47:45 11 that she did not defraud the Virgin Islands National
08:47:52 12 Guard.

08:47:52 13 So I would ask, I would ask for an instruction that
08:47:57 14 the Court would delineate, well, two alternatives. One,
08:48:02 15 my preference would be that the Court would instruct the
08:48:04 16 jury that they are not to consider the payments made to
08:48:16 17 the conduct and transmissions paid to the Military
08:48:21 18 Personnel Services, by Military Personnel Services
08:48:25 19 Corporation to Ms. Morales, in determining whether or
08:48:31 20 not she committed wire fraud.

08:48:33 21 The other alternative would be that the Court would
08:48:39 22 have, would emphasize more exclusion at the beginning
08:48:44 23 and through the elements that it was an intent to
08:48:48 24 defraud the Virgin Islands National Guard only.

08:48:53 25 So I would have asked that the Court would instruct

08:48:55 1 the jury on that specifically, that this specifically
08:49:03 2 relates to the payments made from the Virgin Islands
08:49:05 3 National Guard, and a scheme to defraud the Virgin
08:49:08 4 Islands National Guard.

08:49:11 5 THE COURT: All right. With respect to that
08:49:13 6 issue raised by defense during the charging conference,
08:49:16 7 the Court addressed that.

08:49:20 8 Though the Court is not necessarily persuaded that
08:49:23 9 it was necessary to change the instruction, in an
08:49:29 10 abundance of caution the Court did, and in the first
08:49:34 11 element the Court said: The defendant devised a scheme
08:49:38 12 to defraud, and did say the National -- Virgin Islands
08:49:40 13 National Guard. If the jury doesn't find there was a
08:49:42 14 scheme to defraud the National Guard, then the
08:49:44 15 instruction says that the government would have been
08:49:47 16 deficient in its proof, and that the jury has to find
08:49:51 17 the defendant not guilty.

08:49:53 18 Since the Court's instruction on that point must be
08:49:56 19 read in conjunction with every other instruction,
08:50:00 20 significantly the instruction that says the jury needs
08:50:03 21 to read these instructions together, if they didn't find
08:50:08 22 the first element, then the obligation would be to find
08:50:13 23 the defendant not guilty.

08:50:15 24 Repeating the term "Virgin Islands National Guard,"
08:50:18 25 the Court didn't find that that was necessary in the

08:50:21 1 second or the third element for Counts 3 through 36. So
08:50:36 2 I thought that was appropriate.

08:50:38 3 Anything else?

08:50:39 4 MR. JUPITER: Nothing else with respect to jury
08:50:41 5 instructions, Your Honor.

08:50:42 6 THE COURT: All right. Thank you.

08:50:42 7 All right, Counsel, we will have the rule in place.

08:50:55 8 I don't think the U.S. attorney is in this building

08:50:58 9 either, Attorney Jupiter?

08:50:59 10 MR. JUPITER: Correct, Your Honor.

08:51:01 11 THE COURT: I think in St. Thomas the Public
08:51:03 12 Defender is not in the building, either.

08:51:05 13 MR. JUPITER: We're right down the street, Your
08:51:07 14 Honor. Your Honor, we'll be here in seven minutes.

08:51:11 15 THE COURT: We'll make it an eight, a nine -- a
08:51:14 16 ten-minute rule today. That means be here within
08:51:17 17 ten minutes of a call from Mrs. Brann.

08:51:19 18 Make sure Mrs. Brann has all your contact
08:51:22 19 information.

08:51:22 20 MR. JUPITER: Thank you.

08:51:22 21 THE COURT: All right. Thank you, Counsel.

08:51:37 22 (Court in recess, 8:51 a.m.)

08:51:37 23 (On the record in chambers as follows:)

09:48:56 24 JURY QUESTIONS

09:48:56 25 THE COURT: Good morning. We're on the record.

09:48:56 1 We're in chambers.

09:48:56 2 I received a note from the jury. There was some
09:48:56 3 indication that they have an issue with one of the
09:48:56 4 jurors's ability to comprehend the English language.

09:48:56 5 They reduced their concern to a writing. And the
09:48:56 6 jury note, there's a grave concern from Juror Number 4,
09:48:56 7 as well as the other jurors, with regard to her
09:48:56 8 inability to comprehend what is being said and from
09:48:56 9 fully deliberating on the matter accurately. It is her
09:48:56 10 request as well as the other jurors to have her switched
09:48:56 11 with one of the alternate jurors.

09:48:56 12 My inclination is to voir dire Juror Number 4, find
09:48:56 13 out what her facility is with the language, and if there
09:48:56 14 is some problem then perhaps switch.

09:48:56 15 What's the government's position on that approach?

09:48:56 16 MR. POTTER: I think it's appropriate, Judge.

09:48:56 17 THE COURT: Attorney Jupiter?

09:48:56 18 MR. JUPITER: Well, Your Honor, wasn't she
09:48:56 19 questioned about this beforehand?

09:48:56 20 Wasn't this issue brought forth?

09:48:56 21 I thought that that was resolved.

09:48:56 22 THE COURT: What issue?

09:48:56 23 MR. JUPITER: In terms of her ability to speak
09:48:56 24 English.

09:48:56 25 THE COURT: When was that brought up?

09:48:56 1 MR. JUPITER: I don't think it was brought up,
09:48:56 2 but I did -- I guess, I thought the Court's staff was
09:48:56 3 made aware of it and I thought it was something that was
09:48:56 4 resolved.

09:48:56 5 THE COURT: Did someone on the Court staff tell
09:48:56 6 you that something had come up?

09:48:56 7 MR. JUPITER: No, Your Honor. I just had seen
09:48:56 8 someone, I guess, speaking with her and Mrs. Brann. I
09:48:56 9 thought that issue was resolved.

09:48:56 10 THE COURT: Oh, you saw this juror speaking
09:48:56 11 with Mrs. Brann?

09:48:56 12 MR. JUPITER: And another juror seemed to be
09:48:56 13 communicating through her. So I thought that that issue
09:48:56 14 was resolved.

09:48:56 15 THE COURT: Okay. And the issue, and you're
09:48:56 16 saying that this issue was discussed by the juror and
09:48:56 17 Mrs. Brann and someone else?

09:48:56 18 MR. JUPITER: That's what I surmised, Your
09:48:56 19 Honor. I wasn't privy to the conversation, but when I
09:48:56 20 saw, I guess I thought that issue was resolved.

09:48:56 21 THE COURT: I see.

09:48:56 22 All right. Well, the issue, it seems, whatever the
09:48:56 23 issue is that this note focuses on, is one that's before
09:48:56 24 me with this note now, and the question is, what do we
09:48:56 25 do with it.

09:48:56 1 My thought was to inquire of the juror and assess
09:48:56 2 whether, in fact, there is some issue with her ability
09:48:56 3 to comprehend. If there isn't, then I suspect she goes
09:48:56 4 back; and if not, then we'll deal with that.

09:48:56 5 What do you think about that approach?

09:48:56 6 MR. JUPITER: I think I'm at least finding out
09:48:56 7 the information you should find it out. But I think if
09:48:56 8 we have information that this was what was brought up to
09:48:56 9 the Court personnel before --

09:48:56 10 THE COURT: Go ahead.

09:48:56 11 MR. JUPITER: -- but if this issue was
09:48:56 12 presented, even if it was off the record, I think that
09:48:56 13 we should make a record of it in terms of what was
09:48:56 14 presented. Even if it was off the record, I think we
09:48:56 15 should put on the record whatever was presented.

09:48:56 16 Because like I said, I wasn't privy to the
09:48:56 17 conversation. I just thought it was -- I don't know.
09:48:56 18 So I don't know want to say, because I wasn't privy to
09:48:56 19 the conversation.

09:48:56 20 But if there was something off the record, I think
09:48:56 21 we should put it on the record, if this issue was
09:48:56 22 brought up before, before the -- and what time it was
09:48:56 23 brought up.

09:48:56 24 That's all I'm saying. I don't know. But I think
09:48:56 25 if it was an issue -- if this issue was brought up

09:48:56 1 before, then we should put it on the record. If it
09:48:56 2 wasn't, then we should just say it wasn't.

09:48:56 3 THE COURT: Okay. All right.

09:48:56 4 MR. POTTER: This is the first time the
09:48:56 5 government is hearing anything about this, Your Honor,
09:48:56 6 so we have no knowledge of anything that may have
09:48:56 7 occurred on or off the record during jury selection.

09:48:56 8 THE COURT: Okay. The key issue right now is
09:48:56 9 that there's a deliberation issue that needs to be
09:48:56 10 addressed.

09:48:56 11 I'm going to ask the juror to come. It's Juror
09:48:56 12 Number 4. Why don't we bring her in here. I'll
09:48:56 13 inquire, and then we'll go from there.

09:48:56 14 MR. JUPITER: I would request -- if she can't
09:48:56 15 speak English, I would request an interpreter, Your
09:48:56 16 Honor.

09:48:56 17 THE COURT: We'll see.

09:48:56 18 MR. JUPITER: Your Honor, I would ask for my
09:48:56 19 client to be present. She is right outside.

09:48:56 20 THE COURT: Okay.

09:48:56 21 (Pause)

09:48:56 22 THE COURT: What we'll do, then, we'll do this
09:48:56 23 in the Court. All right, Counsel?

09:48:56 24 MR. JUPITER: Thank you, Your Honor.

09:48:56 25 (End of in chambers proceedings.)

09:48:56 1 (In court, jury not present.)

09:48:56 2 THE COURT: For this portion of the proceeding,

09:48:56 3 the court will be sealed; just counsel and the

09:48:56 4 defendant.

09:48:56 5 All right. We received a jury issue. Let me ask

09:48:56 6 the CSO to make sure this is sealed.

09:49:30 7 All right. We received a notice. Let me ask the

09:49:33 8 juror to come to the witness box, please.

09:50:01 9 Raise your right hand.

09:50:03 10 (Witness sworn by the judge.)

09:50:07 11 THE JUROR: Yes.

09:50:07 12 THE COURT: Okay. Have a seat.

09:50:14 13 Good morning.

09:50:15 14 THE JUROR: Good morning.

09:50:16 15 THE COURT: Tell us your Juror Number, please.

09:50:18 16 THE JUROR: No Ingles.

09:50:19 17 THE COURT: What is your Juror Number?

09:50:24 18 Speak closer to the microphone, please.

09:50:26 19 THE JUROR: Huh?

09:50:27 20 THE COURT: Speak closer to the microphone.

09:50:31 21 THE JUROR: No comprendo.

09:50:37 22 THE COURT: Okay. Can you tell us what your

09:50:42 23 Juror Number is, please, ma'am?

09:50:44 24 THE JUROR: No comprendo.

09:50:51 25 THE COURT: Ma'am, look this way.

09:50:59 1 Ma'am, what is your Juror Number?

09:51:05 2 (Juror speaking Spanish.)

09:51:11 3 THE COURT: All right. Does the government

09:51:14 4 wish to inquire?

09:51:17 5 MR. POTTER: Not at this time, Your Honor, no.

09:51:20 6 THE COURT: Does defense wish to inquire?

09:51:23 7 MR. JUPITER: No, Your Honor.

09:51:25 8 I would request an interpreter. I think the record

09:51:29 9 should reflect that when the Court asked, "What is your

09:51:33 10 name" -- "What is your number," the juror responded her

09:51:40 11 name. And I think we do note "Juror Number" and

09:51:48 12 "nombre" sound most similar.

09:51:49 13 THE COURT: My question is: Do you want to

09:51:50 14 inquire? Yes or no.

09:51:52 15 MR. JUPITER: I would like to inquire through

09:51:54 16 an interpreter, Your Honor.

09:51:55 17 THE COURT: Okay. All right.

09:51:58 18 I don't think that will be necessary at this point.

09:52:03 19 All right.

09:52:08 20 All right. Thank you, ma'am. You can step down

09:52:14 21 now.

09:52:14 22 I would like the record to reflect that the juror

09:52:18 23 came to the box with the CSO waving her towards the box.

09:52:21 24 And when I said "step down," she did not respond. What

09:52:27 25 she did respond to was the CSO's hand movement,

09:52:30 1 indicating, asking her to move.

09:52:31 2 She, in the Court's view, was unresponsive to the
09:52:34 3 Court's inquiries, and not in comprehension of the
09:52:40 4 language that the Court asked the question, since
09:52:44 5 significantly that's the language of the trial.

09:52:47 6 And so the Court's inclination is to excuse this
09:52:52 7 juror and bring in the first alternate.

09:52:54 8 What's the government's position?

09:52:55 9 MR. POTTER: The government concurs, Your
09:52:56 10 Honor.

09:52:56 11 THE COURT: What is the defense position?

09:53:00 12 MR. JUPITER: We move for a mistrial, Your
09:53:03 13 Honor, because we don't know at this point whether or
09:53:05 14 not any other jurors on the -- obviously, the jurors who
09:53:08 15 were selected appear to be able to speak and comprehend
09:53:11 16 English.

09:53:12 17 But in terms of the jury selection process, we
09:53:15 18 don't know whether or not there were other members of
09:53:19 19 the panel that would have affected counsel's use of
09:53:21 20 peremptory strikes, as well as use for strikes for
09:53:25 21 cause.

09:53:25 22 Obviously this witness -- this juror would have
09:53:28 23 been excused for cause, and that would have affected
09:53:31 24 counsel's choices and peremptory strikes. And the -- I
09:53:38 25 don't know whether or not there were other jurors,

09:53:40 1 because I guess this question was not asked.

09:53:42 2 We would also ask that the Court inquire as to the
09:53:48 3 conversation between this juror and court personnel
09:53:54 4 prior to beginning of this trial.

09:53:55 5 THE COURT: Okay.

09:53:56 6 Well, the Court's view, the juror is not capable of
09:54:02 7 communicating in English, doesn't seem to comprehend the
09:54:06 8 language, and so the Court will excuse the juror and
09:54:11 9 move the first alternate into her position.

09:54:15 10 What we'll do is we'll excuse her, bring the
09:54:17 11 alternate in right away, first alternate. We'll bring
09:54:21 12 all the jurors in and instruct them that they need to
09:54:24 13 begin their deliberations anew.

09:54:28 14 So we can bring the first alternate, whoever that
09:54:39 15 is.

09:56:58 16 MR. JUPITER: May I renew a motion, Your Honor?

09:57:01 17 THE COURT: Yes.

09:57:01 18 MR. JUPITER: If I had not done so before, I
09:57:03 19 renew my motion for judgment of acquittal pursuant to
09:57:06 20 Rule 29 of the Federal Rules of Criminal Procedure.

09:57:08 21 THE COURT: All right.

09:57:50 22 Actually, Juror Number 4 is excused. She can
09:58:03 23 leave.

09:58:07 24 THE COURT SECURITY OFFICER: Should I get her
09:58:08 25 bag and --

09:58:09 1 THE COURT: She can -- yeah. You can stay out.

09:58:15 2 THE COURT SECURITY OFFICER: She is going in

09:58:16 3 the restroom.

09:58:37 4 THE COURT: Is the courtroom locked?

09:58:39 5 THE COURT SECURITY OFFICER: Yes.

09:58:43 6 THE COURT: That might be part of the problem.

09:58:44 7 They may be trying to bring the alternate through the

09:58:47 8 front door.

09:58:52 9 They wouldn't bring the alternate that way. The

09:58:54 10 alternate is probably coming through the front door.

09:59:03 11 THE COURT SECURITY OFFICER: Is it unsealed

09:59:05 12 now?

09:59:05 13 THE COURT: Not yet. But let's just -- I'll

09:59:08 14 deal with it if someone comes in.

09:59:08 15 (Pause.)

10:00:03 16 THE COURT: Okay. Bring in the jurors, please.

10:00:16 17 Sir, you can come in and have a seat where you were

10:00:19 18 sitting before.

10:01:29 19 (Jury present.)

10:01:30 20 THE COURT: Be seated.

10:01:30 21 Good morning again, ladies and gentlemen.

10:01:32 22 If you are in the jury box now, you will be the

10:01:38 23 jury that will be deliberating on this case.

10:01:42 24 You'll note that there is one new member to your

10:01:45 25 group, and there is one who is not there when we started

10:01:48 1 at 8:30, when you began your deliberations.

10:01:54 2 The law requires that you begin your deliberations
10:01:59 3 now with the full group that will constitute the jury.

10:02:02 4 So if you started something before, begin it again so
10:02:04 5 that the new member has the benefit of everyone's
10:02:07 6 thoughts and discussions. All right.

10:02:10 7 So with that, let me return you to the deliberation
10:02:13 8 room to resume your deliberations.

10:02:14 9 (Jury out)

10:02:49 10 THE COURT: All right. The Court will note
10:02:50 11 that the courtroom was opened for that portion where the
10:02:53 12 Court charged the new juror and all the jurors to begin
10:02:58 13 their deliberations. It was closed for the portion that
10:03:02 14 was addressing the juror disqualification issue.

10:03:05 15 All right, Counsel. There is no seven-minute rule,
10:03:08 16 so please stay in the courthouse.

10:03:10 17 Thank you.

10:44:42 18 (Court in recess, 10:03 a.m.)

14:13:36 19 (Court in session, 2:13 p.m., jury present.)

14:13:39 20 JURY VERDICT

14:13:39 21 THE COURT: Good afternoon, ladies and
14:13:40 22 gentlemen.

14:13:40 23 I know you've been working hard all day. I
14:13:44 24 understand you've come to a conclusion.

14:13:45 25 Let me ask the foreperson to hand up the form,

14:13:52 1 please.

14:13:53 2 Mrs. Brann.

14:14:16 3 (Verdict handed up. Pause)

14:15:23 4 THE COURT: Mrs. Brann?

14:15:24 5 All right. Will the defendant please rise?

14:15:28 6 Madam foreperson, if you could read the jury's

14:15:32 7 verdict. You just have to read the form as it is

14:15:35 8 written, and read your several verdicts.

14:15:53 9 You can just read as the words are written. Just

14:15:56 10 read those.

14:15:57 11 THE FOREPERSON: (Reading verdict:)

14:15:58 12 As to Count 1, theft from a program

14:16:00 13 receiving federal funds from or -- on or about

14:16:05 14 March 7, 2010, to on or about June 30, 2010,

14:16:10 15 as charged in the indictment, we find the

14:16:13 16 defendant, Sherrymae Morales, not guilty.

14:16:22 17 As to the Count -- As to Count 2, theft

14:16:29 18 from a program receiving federal funds from on

14:16:33 19 or about September 20th, 2010, to on or about

14:16:38 20 July 13th, 2011, as charged in the indictment,

14:16:42 21 we find the defendant, Sherrymae Morales, not

14:16:50 22 guilty.

14:16:50 23 As to Count 3, wire fraud on April 7th,

14:16:56 24 2010, as charged in the indictment, we find

14:16:58 25 the defendant, Sherrymae Morales, not guilty.

14:17:05 1 As to Count 4, wire fraud on April 21st,
14:17:11 2 2010, as charged in the indictment, we find
14:17:13 3 the defendant, Sherrymae Morales, not guilty.
14:17:17 4 As to Count 5, wire fraud on May 5th,
14:17:24 5 2010, as charged in the indictment, we find
14:17:28 6 the defendant, Sherrymae Morales, not guilty.
14:17:30 7 As to Count 6, wire fraud on May 19,
14:17:42 8 2010, as charged in the indictment, we find
14:17:43 9 the defendant, Sherrymae Morales, not guilty.
14:17:47 10 As to Count 7, wire fraud on June 2nd,
14:17:52 11 2010, as charged in the indictment, we find
14:17:54 12 the defendant, Sherrymae Morales, not guilty.
14:17:58 13 As to Count 8, wire fraud on June 16,
14:18:04 14 2010, as charged in the indictment, we find
14:18:06 15 the defendant, Sherrymae Morales, not guilty.
14:18:12 16 As to Count 9, wire fraud on June 30th,
14:18:18 17 2010, as charged in the indictment, we find
14:18:20 18 the defendant, Sherrymae Morales, not guilty.
14:18:26 19 As to Count 10, wire fraud on July 14,
14:18:32 20 2010, as charged in the indictment, we find
14:18:34 21 the defendant, Sherrymae Morales, not guilty.
14:18:38 22 As to Count 11, wire fraud on July 28,
14:18:44 23 2010, as charged in the indictment, we find
14:18:46 24 the defendant, Sherrymae Morales, not guilty.
14:18:50 25 As to Count 12, wire fraud on August 11,

14:18:55 1 2010, as charged in the indictment, we find
14:18:57 2 the defendant, Sherrymae Morales, not guilty.
14:19:01 3 As to Count 13, wire fraud on
14:19:05 4 August 25th, 2010, as charged in the
14:19:09 5 indictment, we find the defendant, Sherrymae
14:19:12 6 Morales, not guilty.
14:19:15 7 As to Count 14, wire fraud on
14:19:19 8 September 8th, 2010, as charged in the
14:19:22 9 indictment, we find the defendant, Sherrymae
14:19:26 10 Morales, not guilty.
14:19:26 11 As to Count 15, wire fraud on
14:19:33 12 September 22nd, 2010, as charged in the
14:19:36 13 indictment, we find the defendant, Sherrymae
14:19:39 14 Morales, guilty.
14:19:42 15 As to Count 16, wire fraud on
14:19:45 16 October 6th, 2010, as charged in the
14:19:49 17 indictment, we find the defendant, Sherrymae
14:19:52 18 Morales, guilty.
14:19:54 19 As to Count 17, wire fraud on
14:19:58 20 October 20th, 2010, as charged in the
14:20:01 21 indictment, we find the defendant, Sherrymae
14:20:04 22 Morales, guilty.
14:20:07 23 As to Count 18, wire fraud on
14:20:10 24 November 3rd, 2010, as charged in the
14:20:14 25 indictment, we find the defendant,

14:20:16 1 Sherrymae Morales, guilty.

14:20:19 2 As to Count 19, wire fraud on

14:20:22 3 November 17th, 2010, as charged in the

14:20:25 4 indictment, we find the defendant, Sherrymae

14:20:28 5 Morales, guilty.

14:20:28 6 As to Count 20, wire fraud on

14:20:33 7 December 1st, 2010, as charged in the

14:20:36 8 indictment, we find the defendant, Sherrymae

14:20:40 9 Morales, guilty.

14:20:41 10 As to Count 21, wire fraud on

14:20:46 11 December 15th, 2010, as charged in the

14:20:49 12 indictment, we find the defendant, Sherrymae

14:20:52 13 Morales, guilty.

14:20:53 14 As to Count 22, wire fraud on

14:20:59 15 December 29th, 2010, as charged in the

14:21:02 16 indictment, we find the defendant, Sherrymae

14:21:06 17 Morales, guilty.

14:21:07 18 As to Count 23, wire fraud on

14:21:10 19 January 12th, 2011, as charged in the

14:21:14 20 indictment, we find the defendant, Sherrymae

14:21:17 21 Morales, guilty.

14:21:19 22 As to Count 24, wire fraud on January 26,

14:21:25 23 2011, as charged in the indictment, we find

14:21:27 24 the defendant, Sherrymae Morales, guilty.

14:21:29 25 As to Count 25, wire fraud on

14:21:34 1 February 9th, 2011, as charged in the
14:21:37 2 indictment, we find the defendant, Sherrymae
14:21:41 3 Morales, guilty.

14:21:41 4 As to Count 26, wire fraud on
14:21:46 5 February 23rd, 2011, as charged in the
14:21:49 6 indictment, we find the defendant, Sherrymae
14:21:52 7 Morales, guilty.

14:21:54 8 As to Count 27, wire fraud on March 9th,
14:22:00 9 2011, as charged in the indictment, we find
14:22:02 10 the defendant, Sherrymae Morales, guilty.

14:22:05 11 As to Count 28, wire fraud on March 23rd,
14:22:12 12 2011, as charged in the indictment, we find
14:22:13 13 the defendant, Sherrymae Morales, guilty.

14:22:17 14 As to Count 29, wire fraud on April 6,
14:22:24 15 2011, as charged in the indictment, we find
14:22:27 16 the defendant, Sherrymae Morales, guilty.

14:22:31 17 As to Count 30, wire fraud on April 20th,
14:22:37 18 2011, as charged in the indictment, we find
14:22:39 19 the defendant, Sherrymae Morales, guilty.

14:22:43 20 As to Count 31, wire fraud on May 4th,
14:22:49 21 2011, as charged in the indictment, we find
14:22:52 22 the defendant, Sherrymae Morales, guilty.

14:22:54 23 As to Count 32, wire fraud on May 18,
14:23:00 24 2011, as charged in the indictment, we find
14:23:03 25 the defendant, Sherrymae Morales, guilty.

14:23:06 1 As to Count 33, wire fraud on June 1st,

14:23:13 2 2011, as charged in the indictment, we find

14:23:15 3 the defendant, Sherrymae Morales, guilty.

14:23:20 4 As to Count 34, wire fraud on June 15,

14:23:26 5 2011, as charged in the indictment, we find

14:23:28 6 the defendant, Sherrymae Morales, guilty.

14:23:33 7 As to Count 35, wire fraud on June 29th,

14:23:38 8 2011, as charged in the indictment, we find

14:23:40 9 the defendant, Sherrymae Morales, guilty.

14:23:45 10 As to Count 36, wire fraud on July 13,

14:23:51 11 2011, as charged in the indictment, we find

14:23:53 12 the defendant, Sherrymae Morales, not guilty.

14:24:01 13 THE COURT: Madam Foreperson, thank you.

14:24:19 14 MR. JUPITER: Request polling, Your Honor.

14:24:21 15 THE COURT: All right.

14:24:22 16 Mrs. Brann?

14:24:34 17 THE CLERK: Jurors, you have heard the

14:24:36 18 foreperson announce the unanimous jury verdict. I will

14:24:41 19 now ask you individually, is this your independent

14:24:43 20 verdict.

14:24:43 21 As I call your seat number, please stand.

14:24:47 22 Seat 1, is this your independent verdict?

14:24:52 23 THE JUROR: Yes.

14:24:54 24 THE CLERK: Seat 2, is this your independent

14:24:55 25 verdict?

14:24:56 1 THE JUROR: Yes.

14:24:57 2 THE CLERK: Seat 3, is this your independent

14:24:59 3 verdict?

14:25:00 4 THE JUROR: Yes.

14:25:02 5 THE CLERK: Seat 4, is this your independent

14:25:04 6 verdict?

14:25:10 7 THE JUROR: Yes.

14:25:11 8 THE CLERK: Seat 5, is this your independent

14:25:13 9 verdict?

14:25:14 10 THE JUROR: Yes.

14:25:14 11 THE CLERK: Seat 6, is this your independent

14:25:16 12 verdict?

14:25:20 13 THE JUROR: Yes.

14:25:21 14 THE CLERK: Seat 7, is this your independent

14:25:23 15 verdict?

14:25:24 16 THE JUROR: Yes.

14:25:25 17 THE CLERK: Seat 8, is this your independent

14:25:26 18 verdict?

14:25:27 19 THE JUROR: Yes.

14:25:28 20 THE CLERK: Seat 9, is this your independent

14:25:30 21 verdict?

14:25:33 22 THE JUROR: Yes.

14:25:34 23 THE CLERK: Seat 10, is this your independent

14:25:37 24 verdict?

14:25:44 25 THE JUROR: Yes.

14:25:45 1 THE CLERK: Seat 11, is this your independent
14:25:48 2 verdict?

14:25:49 3 THE JUROR: Yes.

14:25:51 4 THE CLERK: Seat 12, is this your independent
14:25:53 5 verdict?

14:25:53 6 THE JUROR: Yes.

14:25:55 7 THE CLERK: Judge, the jury has been polled.

14:25:57 8 THE COURT: All right. Thank you, Mrs. Brann.
14:25:59 9 The defendant can have a seat.

14:26:02 10 Ladies and gentlemen, let me thank you for your
14:26:03 11 service.

14:26:04 12 I know it is never easy serving as a juror. When
14:26:07 13 you do serve, you serve your community, this court, the
14:26:12 14 country. You do something that is very important. We
14:26:15 15 could not function in the criminal justice system
14:26:20 16 without you. You are that important.

14:26:21 17 So I thank you for your service. I know the
14:26:24 18 government thanks you. I know defense thanks you for
14:26:27 19 your service.

14:26:28 20 So with that, let me wish you a pleasant day and a
14:26:31 21 pleasant evening. Thank you.

14:27:05 22 (Jury not present.)

14:27:08 23 FURTHER PROCEEDINGS

14:27:08 24 THE COURT: All right, Counsel.

14:28:14 25 Okay. Will the defendant rise.

14:28:17 1 Ms. Morales, you've been found guilty by the jury.

14:28:19 2 Before you are sentenced, the Probation Office needs to

14:28:24 3 undertake a presentence investigation. The presentence

14:28:29 4 investigation will be disclosed to all parties on

14:28:32 5 April 10th, 2015.

14:28:34 6 Presentence conference will take place no later

14:28:37 7 than August 24th, 2015.

14:28:40 8 The position of the parties with respect to

14:28:42 9 sentencing should be shared no later than September 1,

14:28:49 10 2015.

14:28:50 11 The conference regarding sentencing proceedings, if

14:28:52 12 necessary, will take place no later than September 15,

14:28:57 13 2015.

14:28:57 14 The final Presentence Report will be disclosed to

14:29:00 15 all parties of the court on September 20th, 2015.

14:29:05 16 And the sentencing hearing will take place on

14:29:09 17 October 20th, 2015, at 9:00 a.m.

14:29:15 18 My inclination is that that hearing will take place

14:29:21 19 in St. Thomas, as I think some of the considerations

14:29:23 20 that caused us to have the trial in St. Croix will not

14:29:27 21 be attendant for the sentencing hearing.

14:29:30 22 All right. Between now and then, what's the

14:29:36 23 government's position with respect to remand, now that

14:29:40 24 the defendant is adjudged guilty of those counts?

14:29:43 25 MR. POTTER: Your Honor, the government has no

14:29:48 1 position on remand.

14:29:51 2 THE COURT: All right. I'm going to have the
14:29:53 3 defendant surrender to the U.S. Marshal's Service --
14:29:57 4 today is the 1st -- July the 15th, 2015, at 3:00 p.m.

14:30:08 5 That will be in the -- this is a St. Thomas case.
14:30:14 6 Is St. Thomas a more convenient place, or St. Croix a
14:30:18 7 more convenient place, Attorney Jupiter?

14:30:22 8 MR. JUPITER: St. Croix, Your Honor.

14:30:23 9 THE COURT: All right. The defendant will
14:30:25 10 surrender to the United States Marshal's Service on
14:30:28 11 July 15, 2015, at no later than 3:00 p.m., and the
14:30:33 12 defendant will be remanded from that period until the
14:30:35 13 date of sentencing, pending her sentencing, in the
14:30:40 14 custody of the United States Marshal's Service.

14:30:42 15 All right. Counsel, I think that wraps up this
14:30:45 16 case and all the matters we need to tend to.

14:30:50 17 Let me thank counsel for a well-tried case. All
14:30:53 18 right. Thank you, Counsel.

14:30:55 19 (Court in recess, 2:30 p.m.)

14:30:55 20

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CERTIFICATE

This document is hereby certified
to be a true and accurate transcript
of the foregoing proceedings.

/s

Chandra Kean, RMR
Official Court Reporter

DATE